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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/478,467	01/06/2000	MATTHEW P.J. BAKER	PHB-34314	1753

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EXAMINER

TO, DORIS HA

ART UNIT	PAPER NUMBER
2682	10

DATE MAILED: 09/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/478,467	BAKER ET AL.
Examiner	Art Unit	
Doris To	2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 June 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-2, 4-5, 7-8 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Uebayashi et al [US 6,310,868].

Regarding claims 1, 5, 8 and 11, Uebayashi discloses a radio communication system comprising a primary station (base station) and a plurality of secondary stations (mobile stations 1, 2 and 3), the system having a communication channel (control and traffic channels) between the primary station (base station) and a secondary station (mobile station), the channel comprising an uplink and downlink control channel (where mobile station transmits RQ1 and where base station transmits ACK) for transmission of control information, and a data channel (i.e. MSG1) for transmission of data, wherein power control means are provided for adjusting the power of the control and data channels (see open loop power control and closed loop power control) and means are provided for delaying the initial transmission of the data channel until after the initial transmission of the control channels (Noted that Fig. 2 shows the RQ is transmitted before the MSG. Thus, the MSG is delay until after the initial transmission of RQ), see Figs. 1-8.

Regarding claim 2, Uebayashi shows the data channel is an uplink data channel.

Regarding claims 4, 7 and 10, Uebayashi shows the delay (the time between the transmission of RQ and MSG) is sufficient to enable the power control means to have

substantially corrected the difference between the initial and target power levels in the control channels (see Col. 2, lines 6-10).

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 3, 6, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uebayashi et al [US 6,310,868].

Although Uebayashi might not specifically show the delay in transmission of the data channel is predetermined, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the delay time in transmission of the MSG would have to be some predetermined time in order for the mobile station to determine whether or not the RQ is received by the base station and also a predetermined time for the base station to response ACK to mobile station and a predetermined time for the mobile to transmit MSG in order to determine when to set up traffic channel and terminate traffic channel.

Response to Arguments

5. Applicant's arguments filed 6/12/02 have been fully considered but they are not persuasive.

Applicants argued that Uebayashi does not disclose, teach or suggest (1) "means are provided for delaying the initial transmission of the data channel until after the initial transmission of the control channels" as recited in independent claims 1, 5 and 8; (2) "delaying the initial transmission of the data channel until after the initial transmission of the control channels" as recited in independent claim 11.

In response, Applicants does not disagree that RQ and ACK are transmitted on control channels, and MSG is transmitted on data channel. From Fig. 2 of Uebayashi, one would conclude that the MSG is transmitted delayed after the transmission of the RQ and ACK. Thus, this meets the claimed “delaying the initial transmission of the data channel until after the initial transmission of the control channels. In addition to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., delay as indicated by element 302 of Fig. 3) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). For the reasons as stated above, the rejections are maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Doris To whose telephone number is (703) 305-4827. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (703) 308-6739. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Doris To 9/16/02
Doris To
Primary Examiner
Art Unit 2682